

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FILED

JAN 06 2004  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

GREG PEARSON and wife,  
ALICE PEARSON,

Plaintiffs,

VS.

HOME DEPOT U.S.A., INC. d/b/a  
HOME DEPOT,

Defendant.

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CIVIL ACTION NO. SA-03-CA-0837-FB

SCHEDULING ORDER

**NOTE: In addition to the Scheduling Order deadlines listed, the Court will set an initial pretrial status conference in this case. The order setting the conference is being issued contemporaneously with this order and sets the conference date for Wednesday, February 18, 2004, at 8:30 a.m. All parties, party representatives, and counsel are required to attend this conference.**

Pursuant to 28 U.S.C. § 636(c)(1), all full-time United States Magistrate Judges are authorized and empowered to try any civil case, jury or non-jury, with the consent of all parties to the lawsuit. If you wish to consent to trial before a United States Magistrate Judge, you may indicate your consent on the attached form. Your consent to trial by a United States Magistrate Judge must be voluntary and you are free to withhold your consent without suffering any adverse consequences. If all parties consent to trial of this case by a United States Magistrate Judge, this Court will enter an order referring the case to a United States Magistrate Judge for trial and entry of judgment. If the case has already been referred to a United States Magistrate Judge for pretrial matters and the parties consent to a trial before the United States Magistrate Judge, the trial will be before the United States Magistrate Judge already assigned to the case.

The following dates are entered to control the course of this case:

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed by **December 28, 2003**.
2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by **December 28, 2003**, and each opposing party shall respond, in writing, by **January 12, 2004**.
3. The parties shall file all motions to amend or supplement pleadings or to join additional parties by **March 26, 2004**.

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4. All parties asserting claims for relief shall file their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all parties, but not file the materials required by FED. R. CIV. P. 26(a)(2)(B) by **March 29, 2004**. Parties resisting claims for relief shall file their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all parties, but not file the materials required by FED. R. CIV. P. 26(a)(2)(B) by **April 12, 2004**. All designations of rebuttal experts shall be designated within 15 days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony by **April 19, 2004**.

6. The parties shall complete all discovery on or before **May 28, 2004**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed no later than **June 25, 2004**. Dispositive motions as defined in Local Rule CV-7(h) and responses to dispositive motions shall be limited to **20** pages in length.

8. The trial date will be determined at a later date by the Court. The parties shall consult Local Rule CV-16(e) regarding matters to be filed in advance of trial. At the time the trial date is set, the Court will also set the deadline for the filing of matters in advance of trial.

It is so ORDERED.

SIGNED this 6<sup>th</sup> day of January, 2004.

  
FRED BIERY  
UNITED STATES DISTRICT JUDGE

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**CONSENT TO PROCEED TO TRIAL BEFORE A**  
**UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to the above captioned civil matter hereby waive their rights to proceed before a judge of the United States District Court and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including the trial, and order the entry of judgment. Any appeal shall be taken to the United States Court of Appeals for this judicial circuit, in accordance with 28 U.S.C. § 636(c)(3).

\_\_\_\_\_  
Party

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party

By: \_\_\_\_\_  
Attorney

APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
FRED BIERY  
UNITED STATES DISTRICT JUDGE

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CIVIL ACTION NO. SA-03-CA-0837-FB

ADVISORY TO THE CLERK BY PLAINTIFF(S)

In accordance with the Court's previous order requiring the submission of a notice regarding the election of proceeding before a United States Magistrate Judge;

Please be advised that the below named plaintiff(s) elect(s) **NOT** to conduct the trial in this case before a United States Magistrate Judge:

\_\_\_\_\_  
Plaintiff

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Plaintiff

By: \_\_\_\_\_  
Attorney

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ADVISORY TO THE CLERK BY DEFENDANT(S)

In accordance with the Court's previous order requiring the submission of a notice regarding the election of proceeding before a United States Magistrate Judge;

Please be advised that the below named defendant(s) elect(s) **NOT** to conduct the trial in this case before a United States Magistrate Judge:

\_\_\_\_\_  
Defendant

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant

By: \_\_\_\_\_  
Attorney

\_\_\_\_\_  
Defendant

By: \_\_\_\_\_  
Attorney